

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

FABIANA TORRES,

Plaintiff,

v.

LIBERTY MUTUAL INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO.

DEFENDANT LIBERTY MUTUAL INSURANCE COMPANY'S
NOTICE OF REMOVAL

Comes now Defendant Liberty Mutual Insurance Company and pursuant to 28 U.S.C. §§ 1441 and 1446, files this Notice of Removal to the United States District Court for the Western District of Texas, Midland-Odessa Division and respectfully shows the Court the following:

PROCEDURAL BACKGROUND

1. On April 5, 2017, Plaintiff Fabiana Torres filed her Original Petition styled *Fabian Torres vs. Liberty Mutual Insurance Company* in the County Court at Law of Midland County, Texas, originally pending as Cause No. 2C19390. Plaintiff Fabiana Torres alleges that Defendant Liberty Mutual Insurance Company failed its contractual obligations to Plaintiff, acted in bad faith, and refused to fully pay benefits under the uninsured motorist policy. (Ex. 2, p. 2)

2. Defendant Liberty Mutual Insurance Company was served with said suit on April 10, 2017. This removal is filed within 30 days of service upon Defendant Liberty Mutual Insurance Company and is therefore timely filed under 28 U.S.C. § 1446(b).

3. Venue is proper in this district under 28 U.S.C. § 1441 (a) because the state court where the suit has been pending is located in this district. *See* 28 U.S.C. § 124(d)(7).

4. Defendant Liberty Mutual Insurance Company, concurrently with the filing of this petition, has given written notice of the filing of this Notice of Removal to all parties of record and to the Clerk of the County Court at Law of Midland County, Texas. (Ex. 1)

5. Pursuant to 28 U.S.C. § 1446, documents filed in the state court action are attached to this Notice of Removal and are incorporated herein by reference. (Ex. 2)

6. Defendant Liberty Mutual Insurance Company expressly reserves the right to raise all defenses and objections to Plaintiff's claims or to otherwise plead after the action is removed to this Honorable Court.

REMOVAL BASED ON DIVERSITY JURISDICTION

7. This Court has jurisdiction based on 28 U.S.C. §1332(a)(1) in that “the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between ... citizens of different States.”

8. Ms. Torres seeks recovery of damages in the form of “monetary relief of \$100,000.00 to \$200,000.00...” (Ex. 2, p. 6) As such, the amount in controversy is greater than \$75,000.00, excluding interest and costs. *See* 28 U.S.C. § 1446(c)(2).

9. Plaintiff Fabiana Torres alleges that she is a resident of Midland County, Texas. (Ex. 2, p. 1) Thus she is a citizen of the state of Texas. Defendant Liberty Mutual Insurance Company is a Massachusetts corporation with its principal place of business in Massachusetts. Thus, there is complete diversity between the parties.

JURY DEMAND

10. Defendant Liberty Mutual Insurance Company demands a jury on all triable issues pursuant to Federal Rules of Civil Procedure 38 and 81(c).

13. **WHEREFORE, PREMISES CONSIDERED**, Defendant Liberty Mutual Insurance Company prays that this Court accepts their Notice of Removal for filing in accordance with the provisions of 28 U.S.C. § 1441, *et. seq.*, and grants other relief to which Defendant Liberty Mutual Insurance Company may be justly entitled.

Respectfully submitted,

RAY, MCCHRISTIAN & JEANS, P.C.

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May 2, 2017

/s/ Jeff Ray

JEFF RAY

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CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2017, this document was served via electronic mail to Rachel Ambler, *The Malhorta Law Firm*, 319 N. Grant Ave., Odessa, Texas 79761, Rachel@themailhortalawfirm.com.

/s/ Jeff Ray

Jeff Ray